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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/667,246

09/18/2003

Wilfred E.Y. Dejager

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02/05/2008

PAUL W. MARTIN

NCR CORPORATION, LAW DEPT.

1700 S. PATTERSON BLVD.

DAYTON, OH 45479-0001

EXAMINER

LABAZE, EDWYN

ART UNIT

PAPER NUMBER

2887

MAIL DATE

DELIVERY MODE

02/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/667,246

Applicant(s)

DEJAEGER, WILFRED E.Y.

Examiner

EDWYN LABAZE

Art Unit

2887

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-53 is/are rejected.
- 7) ☒ Claim(s) 1-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of amendments/arguments and affidavits filed on 9/18/2007.
2. Claims 1-53 are presented for examination.
3. This application is a reissue of 09/432,639 filed on 11/02/1999 now PAT 6,296,185.

Oath/Declaration

4. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

The applicant needs to specifically point out what is being corrected and what was too narrow in the original claims. In other words, the applicant is respectfully requested to show how the new claims are broader than the original claims. See MPEP 1414 II (b) and (c).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

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do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claim 26 is rejected under 35 U.S.C. 102(e) as being anticipated by Swartz et al. (US 2003.

Re claims 26-30, 32, 33-35, 38-39, 40-42, 44-47: Swartz et al. discloses consumer interactive shopping system, which includes means of scanning {through the scanner 75} an item for purchase into said retail terminal (paragraphs 46-56, 79); displaying {through the display 72/110} item information associated with said item for purchase on said display monitor in response to scanning said item (paragraphs 45-48, 52-58); and displaying a customer-specific retail message on said display monitor, contemporaneously with displaying said item information, the customer-specific retail message being based on previous purchase information stored in a customer profile (paragraphs 53, 70, 121-127, 192-197).

Swartz et al. further teaches means of displaying an item price and item description associated with the item for purchase (paragraph 96).

Swartz et al. also teaches that the displayed message is an advertisement, which advertises a product (paragraphs 68-71, 197, 199).

Swartz et al. teaches a processor unit 701 and a memory device 712 (paragraph 53).

Re claims 31, 43: Swartz et al. teaches system and method, in which the item for purchase is a case of beer and the retail message is an advertisement for pretzels which are commonly consumed with beer (paragraphs 76, 214).

Re claims 36, 48: Swartz et al. discloses a system and method, further comprising means of displaying a retail message on said display monitor, contemporaneously with displaying said item information, where the retail message informs a checkout clerk that the customer is not old enough to purchase beer or other type of alcohol (paragraph 178).

Re claims 37, 49: Swartz et al. teaches a system and method, further comprising means of displaying a customer-specific retail message on said display monitor, contemporaneously with displaying said item information, in order for the message to be verbally relayed or otherwise communicated to the customer by a checkout clerk the customer-specific retail message being based on previous purchase information stored in a customer profile (paragraphs 220, 251).

Re claims 50-53: Swartz et al. discloses a system and method further teaches means of identifying a self-service customer by reading [his or her] a loyalty card using a card reader associated with said retail terminal to obtain customer identifying information (paragraphs 89, 104, 115, 200, 242); displaying a retail message on the display monitor, contemporaneously with displaying the item information, where the message is generated using the customer identifying information, as an index to retrieve previous purchase information from a stored customer profile associated with the customer (paragraph 182).

Allowable Subject Matter

7. Claims 1-25 would be allowable upon filing proper reissue declaration that complies with 37 CFR 1.175 and 37 CFR 1.63.

8. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to specifically teach means of displaying on first portion of the display

information in response to generation of an item-entered control signal, a message on a second portion of the display. These limitations in conjunction with other limitations in the claimed invention were not shown by the prior art of record.

Response to Arguments

9. Applicant's arguments with respect to claims 26-53 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571)272-2395.

The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Paik can be reached on (571) 272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

El

Edwyn Labaze

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February 4, 2008


STEVEN S. PAIK
PRIMARY EXAMINER